
OLR Bill Analysis

sHB 5241 (as amended by House "A")*

AN ACT CONCERNING DELAYED BIRTH REGISTRATION.

SUMMARY:

This bill changes the process for requesting a delayed birth certificate, which is a birth certificate that is registered a year or more after a birth. Among other things, the bill requires requests for delayed birth certificates to be filed with the Department of Public Health (DPH), rather than the town registrar of vital statistics. In addition to the affidavit required by current law, the bill requires the requesting person to submit documentary evidence in support of the facts of the birth.

The bill also makes changes affecting probate court proceedings brought when someone's request for a delayed birth certificate has been denied. For example, it specifically allows the court to order DNA testing in such matters, specifies who must pay for DNA testing, and creates a rebuttable presumption of parentage if the test shows a 99% or greater probability of parentage.

The bill requires DPH, rather than the town registrar, to prepare delayed birth certificates after such requests, including those prepared after a court order.

The bill also makes minor and technical changes.

*House Amendment "A" (1) specifies who the probate court must notify about a hearing on a request for a delayed certificate; (2) allows the DPH commissioner or representative to testify at such hearings; (3) specifies who can conduct DNA tests under the bill, and creates the rebuttable presumption connected to such tests; (4) requires DPH, rather than the town registrar, to issue delayed birth certificates following probate court orders; and (5) makes minor, technical, and

clarifying changes to the underlying bill.

EFFECTIVE DATE: October 1, 2012

DELAYED BIRTH CERTIFICATES

Requests to DPH

By law, any adult, or the guardian of a minor, without a birth certificate on file can request a delayed birth registration. The bill specifies that the procedures for requesting a delayed birth registration do not apply to birth certificates for minors less than one year old. It also makes a technical change by specifying that a minor's parent or legal guardian can make such a request.

The bill requires that requests for delayed birth certificates be submitted to DPH, rather than to the registrar of vital statistics for the town where the birth occurred. Under current law, someone seeking a delayed birth certificate must, along with two other people with knowledge of the facts, make an affidavit under oath as to the matters the law requires for birth certificates. The bill (1) specifies that the requesting person and the two other people with knowledge must complete separate affidavits, (2) requires that the two other people have first-hand knowledge of the facts relating to the birth, and (3) requires the affidavits to be in the manner and form the DPH commissioner prescribes.

The bill also requires the requesting person to submit to DPH documentary evidence of the name, date, and place of birth relating to the requested certificate. This evidence must be sufficient to allow DPH to determine that the birth occurred when and where the requesting person alleges it did.

Under the bill, if DPH determines that the evidence is sufficient to determine the facts of the birth, DPH must prepare a birth certificate based on the evidence and affidavits. DPH must then send a copy to the registrars of the town (1) where the birth occurred and (2) where the minor's mother resided at the time of the birth. This conforms to existing law, which requires all birth certificates to be filed in the town

where the birth occurred, and an authenticated copy to be sent to the town where the mother resided at the birth, if different.

By contrast, under current law, the registrar prepares a birth certificate based on the information in the affidavit, and files the birth certificate, along with the affidavit, in the same manner as other birth certificates, which includes filing a copy with DPH.

Application to Probate Court

Under current law, if the person requesting the delayed birth certificate is unable to provide an affidavit that the town registrar finds satisfactory, the person can apply to probate court for an order requiring the registrar to prepare such a birth certificate. The bill instead allows the requesting person to petition the probate court for an order requiring DPH to prepare the certificate if DPH denied the request to do so. The bill specifies that the petitioner must include with the petition the affidavits and documentary evidence submitted to DPH as part of the request.

Current law allows the court to decide such matters without notice and a hearing. The bill instead requires the court to schedule a hearing. It must notify the following people about the hearing:

1. the petitioner;
2. if the petitioner is seeking the delayed registration for a minor,
(a) the minor's parent or legal guardian and (b) the minor himself or herself if the minor is at least 12 years old;
3. the DPH commissioner; and
4. anyone else the court determines has an interest in the hearing.

The bill allows the DPH commissioner or her authorized representative to appear and testify at such hearings. It specifies that the person seeking the court order has the burden of proving the facts of the birth by a preponderance of the evidence.

In such proceedings under the bill, the court, on its own motion or

that of a party, can order DNA tests. The tests must be performed by a hospital, accredited laboratory, qualified physician, or other person the court designates as qualified to determine parentage.

The petitioner must pay for any DNA test the court requires, unless the court finds the person to be indigent; in that case, DPH must pay for it.

Under the bill, if the DNA test shows at least a 99% probability that the person is the mother or father of the individual for whom the petitioner is seeking a delayed birth registration, there is a rebuttable presumption that the person is the mother or father.

Under the bill, if the court finds that the birth occurred when and where the petitioner alleges it did, the court must issue an order (1) containing the person's name, sex, date and place of birth, and any other identifying information the court deems appropriate and (2) directing DPH to issue a delayed birth certificate. After receiving a certified copy of such an order, DPH must prepare a birth certificate based on the facts set forth in the order. DPH must also send a copy of the certificate to the registrars of the town (1) where the birth occurred and (2) where the mother resided at the time of the birth.

By contrast, under current law, the town registrar, rather than DPH, issues a delayed birth certificate following such a court order.

Contents of Delayed Birth Certificates

By law, delayed birth certificates must indicate the date of the delayed registration. Current law also requires the record of birth to refer to the certificate and the affidavit or court order. The bill instead requires delayed birth certificates to indicate:

1. the person's name, sex, date and place of birth, and any other identifying information the DPH commissioner prescribes, as such facts have been determined based on the evidence presented to DPH or stated in a court order and
2. when a court order determined the facts of birth, a statement

that the birth is registered pursuant to court order.

COMMITTEE ACTION

Public Health Committee

Joint Favorable

Yea 25 Nay 0 (03/09/2012)

Judiciary Committee

Joint Favorable

Yea 40 Nay 0 (04/17/2012)